

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,
BUREAU FOR MEDICAL SERVICES**

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,**

and

**KATHLEEN SEBELIUS, Secretary of the
United States Department of Health and
Human Services, in her official capacity,**

Defendants.

**Civ. No. 2:11-CV-00327
Judge Thomas E. Johnston**

ORAL ARGUMENT REQUESTED

MOTION FOR SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff West Virginia Department of Health and Human Resources, Bureau for Medical Services, hereby moves for summary judgment. For the reasons set forth in the accompanying Memorandum in Support of Plaintiff's Motion for Summary Judgment, there is no genuine issue of material fact, and Plaintiff is entitled to judgment as a matter of law. Plaintiff therefore asks this Court to enter judgment in its favor.

A proposed order is attached to this motion.

Respectfully submitted,

/s/ Mary McQuain

Mary McQuain (WV Bar No. 713)
WEST VIRGINIA DEPARTMENT OF
HEALTH & HUMAN RESOURCES,
BUREAU FOR MEDICAL SERVICES
350 Capitol Street, Room 251
Charleston, WV 25301-1757
Tel: (304) 356-4899
Fax: (304) 558-1509
Email: Mary.G.McQuain@wv.gov

/s/ Carolyn F. Corwin

Carolyn F. Corwin (*pro hac vice*)
Caroline M. Brown (*pro hac vice*)
Jonathan G. Hardin (*pro hac vice*)
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
Tel: (202) 662-6000
Fax: (202) 662-6291
Email: ccorwin@cov.com
cbrown@cov.com
jhardin@cov.com

*Attorneys for Plaintiff West Virginia
Department of Health and Human
Resources, Bureau for Medical Services*

September 23, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

Gary L. Call
Assistant United States Attorney
P.O. Box 1713
Charleston, WV 25326
Tel: (304) 345-2200
Fax: (304) 347-5440
Email: gary.call@usdoj.gov

I hereby certify that I have mailed the document by United States Postal Service to the following non-CM/ECF participants:

Suzanne K. Yurk
Assistant Regional Counsel
Office of the General Counsel
U.S. Department of Health & Human Services
150 S. Independence Mall W.
Philadelphia, PA 19106-3499

/s/ Jonathan G. Hardin

Jonathan G. Hardin
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
Tel: (202) 662-6000
Fax: (202) 662-6291
Email: jhardin@cov.com

Attorney for Plaintiff